

Minutes
Air Pollution Control Board
Indiana Government Center South
Conference Room C
402 West Washington Street
Indianapolis, Indiana

March 7, 2001
1:00 p.m.

1. Mr. John Walker, Chairman, called the meeting to order. He noted that a quorum was present.

CALL TO ORDER
QUORUM

2. Chairman Walker introduced the board members.

INTRODUCTION OF
MEMBERS

Present: Mr. John Walker, Chairman
Mr. Marlow Harmon
Dr. James Miner
Mr. Thomas Anderson
Mr. Chris Horn
Dr. Phil Stevens
Ms. Melanie Darke, Proxy, Lieutenant Governor
Mr. Howard Cundiff, Proxy, State Board of Health
Mr. David Benshoof

Chairman Walker introduce Mr. David Benshoof as a new member of the air pollution control board representing small businesses.

Also present were Ms. Rachel McGeever, Board Counsel; Ms. Janet McCabe, Assistant Commissioner; and Ms. Kathy Watson, Branch Chief. Others are recorded on a separate sheet and made a part of this record. A court reporter was present and a transcript is available for review.

3. Ms. McCabe gave an update on legislative matters, including the following bills that the board may address in the future:

REPORTS

- (1) The sunset law, that says that administrative rules expire seven years after adoption, if not specifically readopted. There has been some effort to amend the sunset rule this year to clarify that rules required in order for IDEM to implement federal programs or for which IDEM receives federal monies would not be subject to the sunset law. U.S.

EPA does not take kindly to the fact that our rules can just expire unless IDEM does something affirmative to make sure that that doesn't happen and has expressed concern about our being able to retain authority over those programs. That amendment is through the House and will continue to move through the process.

- (2) The lead-based paint program. The air pollution control board adopted regulations to implement the federal lead-based paint abatement program. There are some suggested amendments that would make adjustments to the program and also set some basic work-practice standards for anyone doing work that disturbs lead-based paint even if it is not a formal abatement action.
- (3) Variances for fire training purposes. There is interest from volunteer fire departments to be allowed to test burn motor vehicles. IDEM requires items such as the tires, upholstery, fluids and other items that would create harmful emissions be removed prior to its burning. Interest exists that they be allowed to burn a motor vehicle fully loaded so that they could have actual experience. Rather than handling this request through legislation, IDEM has worked with the volunteer fire departments to develop a non-rule policy document for those situations in which it would be reasonable for IDEM to grant a variance to provide fire fighting experience. The non-rule policy documents will be presented to the board at the next meeting. The non-rule policy document must be presented to the board before it can become effective.

Ms. McCabe distributed a handout explaining the eight-hour ozone standard and the fine particle standard while also detailing the Supreme Court's decisions on those matters.

Ms. McCabe presented a brief update on the status of the NOx rule.

- 4. Chairman Walker introduced the January 3, 2001 Air Pollution Control Board minutes. **MINUTES**

Mr. Horn moved to adopt the January 3, 2001 Air Pollution Control Board's Minutes. Mr. Harmon seconded. The motion passed unanimously.

5. Chairman Walker introduced Exhibit 1 the draft rule, into the record of the hearing.

Ms. Watson informed the board of items that had been included with their board folders including: a copy of the rule readoption statutes that govern the rule readoption by Sunset and a schedule for the rest of the rule readoption rulemakings for this year. Ms. Watson stated that the shipbuilding and ship repair rule was part of the first batch of Sunset rules that were addressed at the February, 2001 meeting. This current group includes rules that received comment in the first comment period for rule readoption last spring. When a rule received a comment in the first comment period, the rule does not go through the expedited readoption process but rather the full rule promulgation process; these rules were 326 IAC 1-6, 326 IAC 8-7, 326 IAC 8-9, 326 IAC 8-11, and 326 IAC 18-2. During the second comment period IDEM had asked for specific language changes or suggestions to act upon and to consider during the readoption process. These five rules did not receive comments during the second comment period. Ms. Watson requested the board to preliminarily adopt or readopt these rules as they are currently written. Ms. Watson also requested that the board repeal rule 19-1, Employee Commute Option. The two rules that received comments were 4-2 and 9-1.

Ms. Susan Bem, Air Programs branch of the Office of Air Quality, commented on the rulemaking by explaining some of the changes that are being proposed for rule 326 IAC 4-2, incinerators, and 326 IAC 9-1, carbon monoxide omissions.

Mr. Bernie Paul, Eli Lilly, stated that although Eli Lilly's comments in response to the second notice of comment period were not submitted within the formal comment period, he appreciated the fact that the comments were taken into consideration in amending rules 326 IAC 4-2 and 326 IAC 9-1. He urged the board to consider when a rule is up for readoption: first whether or not the rule is achieving its intended purpose and if it is still necessary because other regulations have come into place or that particular issue is no longer an issue; and second whether or not the rules meet current standards for how a rule should be written. He suggested that 326 IAC 4-2 and 326 IAC 9-1 are outdated and need to be revised, modernized and brought up to today's standards. Mr. Paul distributed handouts with suggested draft rule language applicable to that should be applied to 326 IAC 4-2, including the suggestion that incinerators subject to new federal regulations be exempt from this state rule. Mr. Paul stated that Eli Lilly could not support or disagree with 326 IAC 9-1 in regards to the requirement that

**PUBLIC HEARING FOR
PRELIMINARY
ADOPTION OF
AMENDMENTS TO
RULES 326 IAC 4-2,
Incinerators, 326 IAC 9-1,
Carbon Monoxide
Emission Limits;
PRELIMINARY
READOPTION OF
RULES 326 IAC 1-6,
Malfunctions, 326 IAC 8-
7, Specific VOC
Reduction Requirements
for Lake, Porter, Clark
and Floyd Counties, 326
IAC 8-9, Volatile Organic
Liquid Storage Vessels,
326 IAC 8-11, Wood
Furniture Coatings, 326
IAC 18-2, Asbestos
Training Courses
Requirements for
Approval; And
PRELIMINARY**

incinerators are required to operate their afterburners at 1300 degrees because they have not had a chance to see if it is going to be a problem at their plants. He urged the board to keep the 1300 degree limitation out of 326 IAC 9-1.

Mr. Michael Scanlon, Barnes and Thornburg, representing Monaco Coach Corporation, commented on the rulemaking by raising concerns on rules not commented on during the second comment notice. He commented on 326 IAC 1-6 and the requirement for all emission control units to have preventative maintenance plans. Second he asked the board to extend deadlines for those companies subject to 326 IAC 8-7, 8-9, 8-11, and 18-2 that must give emissions reports within a 30-day period, stating that the time frame is too short to submit an accurate report.

Mr. Anderson moved to preliminary adopt amendments to rules 326 IAC 4-2 and 326 IAC 9-1. Mr. Stevens seconded. The motion passed unanimously.

Mr. Cundiff moved to preliminary readopt rules 326 IAC 1-6, 326 IAC 8-7, 326 IAC 8-9, 326 IAC 8-11, and 326 IAC 18-2. Mr. Anderson seconded. The motion passed unanimously.

Mr. Harmon moved to preliminarily repeal 326 IAC 19-1. Mr. Cundiff seconded. The motion passed unanimously.

6. The next meeting will be on Thursday, April 12, 2001, at 1:00 p.m., in the Government Center South, Conference Room B, Indianapolis, Indiana.

NEXT MEETING

7. Chairman Walker adjourned the meeting at 2:20 p.m.

ADJOURNMENT

John Walker, Chairman

These minutes were taken from the March 7, 2001, and were written on May 23, 2001 by Karol Chuma, Office of Air Quality.